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2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 OAKLAND DIVISION  
5

6 UNITED STATES OF AMERICA,

7 Plaintiff,

8 vs.

9 HENRI BERGER,

10 Defendant.  
11

Case No: CR 05-00334 SBA

**ORDER**


12 On March 21, 2011, Defendant Henri Berger (“Defendant”) pleaded guilty to Count  
13 One of the Indictment—Wire Fraud, in violation of 18 U.S.C. § 1343. Dkt. 559. On June  
14 21, 2011, the Court sentenced Defendant to one (1) day of imprisonment and three (3) years  
15 of supervised release, and ordered payment of a special assessment of \$100 and restitution  
16 of \$1,987,250. Dkt. 573, 575. With regard to Defendant’s supervised release, the Court  
17 imposed a condition of ten (10) months of home detention. Id. As to Defendant’s  
18 restitution, the Court required him to pay \$1,000 a month. Id. On September 17, 2011,  
19 Defendant Henri Berger filed a request for modification of his home-detention condition  
20 and restitution obligations. Dkt. 605. Defendant states that he was recently diagnosed with  
21 lung cancer, was hospitalized, underwent surgery and is recovering from surgery. Id. He  
22 states his home detention has not commenced because of these medical procedures, and he  
23 requests that the term not commence until the Probation Officer deems appropriate. Id. He  
24 states that his income is \$924 from Social Security and \$270 Euros from the Holocaust  
25 Survivor’s Compensation Fund, and therefore he is unable to satisfy the \$1,000 monthly  
26 payment of restitution. Id. He requests that the restitution be reduced to some unspecified  
27 amount. Id.  
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1 Although the Probation Officer and Government have been informed of Defendant's  
2 request, Dkt. 605 at 2, neither has responded. To expedite the resolution of this matter, the  
3 Court directs the Probation Officer and the Government to respond to Defendant's request.  
4 Accordingly, IT IS HEREBY ORDERED THAT the Probation Officer shall prepare and  
5 disclose a memorandum with regard to his recommendation as to Defendant's request to  
6 the Government, Defendant and the Court by no later than seven (7) days from the date of  
7 this Order. The Government shall file a memorandum concerning Defendant's request by  
8 no later than seven (7) days from the date that the Probation Officer files his memorandum.  
9 Defendant shall file any reply to the Government's response by no later than five (5) days  
10 from the date the Government files its response.

11 IT IS SO ORDERED.

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14 Dated: September 21, 2011

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge